

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Edward Stewart

vs.

David Feldman, *et al.*

Civil Action
No. 20-776

**DECLARATION OF DANIEL J. AUERBACH IN SUPPORT
OF PLAINTIFF'S MOTION FOR SANCTIONS**

1. My name is Daniel Johnson Auerbach. I represent Plaintiff Edward Stewart.
2. The fee agreement between Plaintiff and Gamburg & Benedetto, LLC provides that Mr. Stewart will pay the firm hourly. The agreement provides that my billing rate is \$250.00 per hour.
3. I billed a total of 43.3 hours in seeking discovery after Defendants failed to comply with the applicable discovery deadline for production of documents. 43.3 hours of my time amounts to \$11,075.00 under the terms of the fee agreement. My time was incurred as follows:

Costs relating to non-compliance with October 22 Order (sanctions not previous sought)			
11/6/2020	Finished drafting motion to compel and for sanctions.	1.8	\$450.00
11/6/2020	Phone call with Simon Rosen	0.7	\$175.00
11/5/2020	Review of discovery production from Feldman; email to Rosen re outstanding discovery issues.	1.1	\$275.00
11/2/2020	Discussion with Don Benedetto, Esq. re plan for seeking sanctions.	0.1	\$25.00
11/2/2020	Reviewed production; correspondence with Simon Rosen; phone call with Simon Rosen	1.0	\$250.00
11/2/2020	Drafting of motion to compel and for sanctions, including research and review of prior filings.	2.4	\$600.00
10/29/2020	Reviewed production	1.2	\$300.00
10/28/2020	Reviewed production.	0.2	\$50.00
SUBTOTAL:			\$2,475

Costs relating to non-compliance with September 10 Order (sanctions previously denied)			
10/22/2020	Prepared for and attended 10/22 discovery conference.	0.7	\$175.00
10/6/2020	Reviewed Defendants sur-reply re motion for sanctions.	0.2	\$50.00
9/29/2020	Correspondence with opposing counsel re document production.	0.1	\$25.00
9/28/2020	Finished drafting reply brief and supporting documents including necessary research; drafted motion for leave to file reply brief; drafted letter requesting discovery conference.	3.0	\$750.00
9/27/2020	Correspondence with opposing counsel re motion for sanctions (includes time for 9/26 & 9/27).	0.2	\$50.00
9/27/2020	Finished drafting reply brief and supporting documents including necessary research; drafted motion for leave to file reply brief; drafted letter requesting discovery conference.	2.5	\$625.00
9/25/2020	Reviewed Defendants' response to motions for sanctions; drafting of reply brief and necessary research.	3.5	\$875.00
9/23/2020	Reviewed discovery responses and formulated discovery motions plan with Don Benedetto.	0.5	\$125.00
9/22/2020	Reviewed discovery responses from Defendants; phone call with Simon Rosen re discovery responses.	1.0	\$250.00
9/21/2020	Reviewed production by Defendants.	0.5	\$125.00
			SUBTOTAL: \$3,050
Costs for non-compliance with August 27 Order (sanctions previously denied)			
9/10/2020	Prepared for and attended hearing on motion for sanctions.	1.0	\$250.00
9/9/2020	Reviewed motion for bifurcation; research on bifurcation; prepared for hearing on motion for sanctions.	0.8	\$200.00
9/8/2020	Drafted motion for sanctions including all necessary research into caselaw governing standard for discovery sanctions under Rule 37(b)(2).	1.8	\$450.00
			SUBTOTAL: \$900

Costs relating to non-compliance with August 5 Order (sanctions previously denied)			
8/26/2020	Drafted response to Defendants' motion for extension of time to provide discovery responses; reviewed supplemental interrogatory responses.	2.2	\$550.00
8/25/2020	Call with Rosen re status of discovery.	0.2	\$50.00
8/25/2020	Drafted and filed motion to compel discovery responses.	0.8	\$200.00
			SUBTOTAL: \$800

Discovery conference re initial discovery motions (sanctions previously denied)			
8/4/2020	Attended discovery conference; preparation for same.	1.5	\$375.00
8/3/2020	Preparation for discovery hearing.	0.6	\$150.00
			SUBTOTAL: \$525

Response to motion for Protective Order (sanctions previously denied)			
8/2/2020	Finished response to motion for protective order, including necessary research as to court's authority to require pre-authorization for discovery, the governing legal standard, the availability of sanctions, etc.	6.8	\$1,700.00
8/1/2020	Drafting of response to motion for protective order, including legal research re governing standard.	4.2	\$1,050.00
			SUBTOTAL: \$2,750

Initial deficiency letter and efforts to resolve (\$325) (sanctions previously denied)			
7/31/2020	Call and email with opposing counsel re settlement and discovery issues	0.8	\$200.00
7/27/2020	Drafted letter request for conference to Judge Gallagher; sent email to chambers re scheduling status conference.	0.6	\$150.00
7/22/2020	Call with opposing counsel re discovery issues.	0.6	\$150.00
7/21/2020	Drafted letter regarding deficiencies in Defendants' response to requests for production.	0.7	\$175.00
			SUBTOTAL: \$675

4. I declare under penalty of perjury that the foregoing is true and correct. Executed on November 6, 2020.

Respectfully submitted,

/s/ Daniel J. Auerbach
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Dated: November 6, 2020